



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/042,503      | 01/09/2002  | Daniel S. Lowen      | AUS920010643US1     | 6723             |

7590 02/18/2005

Frank C. Nicholas  
CARDINAL LAW GROUP  
Suite 2000  
1603 Orrington Avenue  
Evanston, IL 60201

EXAMINER

LE, DIEU MINH T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2114

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/042,503

Applicant(s)

LOWEN ET AL.

Examiner

Dieu-Minh Le

Art Unit

2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This Office Action is in response to the amendment filed on December 07, 2004 in application 10/042,503.

2. Claims 1-18 again presented for examination.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Examiner regrets that the Applicant's counsel was unable to contact the Examiner for an interview. However, Examiner never received any phone calls or messages left by Applicant's counsel during the period indicated [November 1, 2004 and November 5, 2004]. Applicants are invited to contact the Examiner anytime during business hours to schedule an interview.

**Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the

Art Unit: 2114

invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-18 are again rejected under 35 U.S.C. 102(e) as being anticipate over Lee et al. (U.S. Patent 6,718,489 hereafter referred to as Lee).

This rejection is being applied for the same reasons set forth in the previous Office Action paper number 3, paragraph 3 mailed October 18, 2004.

As per claims 1-18 see the previous office action for the detailed teaching of Lee.

Applicant asserts that Lee failed to teach or suggest the following:

- a. allowing the collected log statement to be persisted in case of an error in a production environment;

Art Unit: 2114

- b. distinguish between production environment and developments environment;
- c. distinguish between production environment and test environment;
- d. detecting a death of an application thread by the logger and deleting the application thread's log statements after thread death.

Examiner respectfully transverses Applicant's argument as follows:

- a. First, Examiner would like to bring Applicant attention to Lee's a multi-thread software/application services for monitoring software Event Log for system, application errors detection and correction [fig 1A, col. 1, lines 53-62]. Lee further illustrated the electronic service request for the automatic fault management system in production [i.e., operation, solution, and specification, col. 7, lines 29-36; col. 11, lines 36-45; col. 12, lines 8-23], development [abstract, col. 7, lines 38-58; col. 9, lines 40-44], and testing [col. 10, lines 12-18] environments.

Art Unit: 2114

Second, Lee explicitly taught and described the "**allowing the collected log statement to be persisted in case of an error in a production environment**" limitation as argued by Applicant.

Lee specifically disclosed as following:

At [col. 8, line 54 through col. 9, line 3] Lee teaches

"When the error are sensed and they meet a set of condition specified by the Conditions Database 25, then the ESR Generator Service 24 will initiate the following:

1. It extracts error information from the Windows NT Event Log 23;
  2. The generator service creates an ESR packet that contains a description of the error;
  3. The generator service sends the data packet to the ESR Formatter program 26 which then converts raw data into a specific data format that meets a specified packet specification;
  4. The generator service then sends packets to the Formatter 26 using a synchronous Winsock connection (FIG. 1B)
- After this, the NT server 30 will forward the packet to the Remote Service Center 52 for subsequent corrective response action".

It is clearly that Lee's capabilities do teach the Applicant's limitation.

Art Unit: 2114

b. In response to Applicant's argument that the references fail to show certain features of Applicant's invention, it is noted that the feature upon which Applicant relies (i.e., distinguish between production environment and developments environment) is not recited in the rejected claim. Although the claim is interpreted in light of the specification, limitations from the specification is not read into the claims. *In re Van Guens*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, Lee further illustrated the electronic service request for the automatic fault management system in production [i.e., operation, solution, and specification, col. 7, lines 29-36; col. 11, lines 36-45; col. 12, lines 8-23], development [abstract, col. 7, lines 38-58; col. 9, lines 40-44], and testing [col. 10, lines 12-18] environments. It is clearly that Lee's capabilities do teach the Applicant's limitation.

c. In response to Applicant's argument that the references fail to show certain features of Applicant's invention, it is noted that the feature upon which Applicant relies (i.e., distinguish between production environment and test environment) is not recited in the rejected claim. Although the claim is interpreted in light of the specification, limitations from the

Art Unit: 2114

specification is not read into the claims. *In re Van Guens*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, Lee further illustrated the electronic service request for the automatic fault management system in production [i.e., operation, solution, and specification, col. 7, lines 29-36; col. 11, lines 36-45; col. 12, lines 8-23], development [abstract, col. 7, lines 38-58; col. 9, lines 40-44], and testing [col. 10, lines 12-18] environments. It is clearly that Lee's capabilities do teach the Applicant's limitation.

d. it is not true that Lee failed to teach "detecting a death of an application thread by the logger and deleting the application thread's log statements after thread death" limitation as claimed by Applicant.

Lee clearly demonstrated this limitation via:

- ESR application detection including Event Source, Event ID, Frequency, Duration, etc... [col. 7, lines 37 through col. 8, lines 10];
- NT fault detection [col. 12, lines 8-23];
- ESR allows user to configure, view, and delete service request (i.e., deleting application thread's log statement after thread death" [col. 12, lines 24-29];



Art Unit: 2114

- application platform can be added or removed in supporting the fault sensing, detection, and correction process [col. 13, lines 3-7].

Therefore, it is clearly that Lee's capabilities do teach the Applicant's limitation.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh Le whose telephone number is (571) 272-3660. The examiner can normally be reached on Monday - Thursday from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can

Art Unit: 2114

be reached on (571)272-3645. The Tech Center 2100 phone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**DIEU-MINH THAI LE**  
**PRIMARY EXAMINER**  
**ART UNIT 2114**

DML  
2/17/05